

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7613
BILL NUMBER: SB 420

NOTE PREPARED: Jan 6, 2007
BILL AMENDED:

SUBJECT: Dog Bites.

FIRST AUTHOR: Sen. Simpson
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Civil Liability: It specifies that a dog owner may be held civilly liable if the owner's dog attacks a person who is carrying out a duty imposed by state law, federal law, postal regulations, or a local ordinance or under the authority of a public utility.

Criminal Penalty: It provides that a dog owner who knowingly or intentionally fails to restrain the owner's dog or fails to post a warning sign on the dog owner's property commits a Class B misdemeanor if: (1) the dog bites a person on the dog owner's property; (2) the person bitten was carrying out a duty imposed by state law, federal law, postal regulations, or a local ordinance or under authority of a public utility; and (3) the person bitten incurs serious bodily injury. It also establishes enhanced penalties for repeat offenses or if the person bitten dies.

Notification: It requires a person who has a duty to enter a dog owner's property but who cannot enter the owner's property because of the presence of the dog to obtain a court order or notify the property owner by certified mail of the person's inability to enter the dog owner's property.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Criminal Penalty - Felony Offense:* A dog bite or attack that results in death that occurs on the real property of a the dog owner who has knowingly or intentionally failed to post conspicuous, readable notice indicating that the dog is on the property commits a Class C felony, under the bill. A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating

and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Notification: Costs for notifying a property owner that a person with a duty to enter a property cannot enter the dog owner's property would have indeterminate increased costs for state and local agencies.

Explanation of State Revenues: *Civil Liability:* Under current law, dog owners are liable for a dog bite on their own property if the person bitten was discharging a duty imposed by the laws of the state or laws or postal regulations of the United States. Under the bill, the duties imposed by the constitutions of the State of Indiana and the United States and ordinances adopted by a county or municipal government, or a person acting under the authority of a public utility would be added. In addition, the bill would specify that the dog owner is civilly liable and that the civil liability would not apply if the person bitten was on the real property of the dog owner and there was a conspicuously posted, readable sign indicating that the dog is present on the property. There would be an exception to this if the person who was bitten was a firefighter, emergency responder, or a law enforcement officer.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Criminal Penalty - Misdemeanor Offenses: Under the bill, if a dog bite or attack that results in serious bodily injury that occurs on the real property of a dog owner who has knowingly or intentionally failed to post a conspicuous, readable notice indicating that the dog is present on the property and the dog owner fails to restrain the dog, the dog owner commits a Class B misdemeanor that may be enhanced to a Class A misdemeanor if there is a prior unrelated conviction.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and the maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

Criminal Penalty - Felony Offense: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

For both felony and misdemeanor offenses, if the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Criminal Penalty - Felony and Misdemeanor Offenses:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail, and a Class B misdemeanor is punishable by up to 180 days in jail. The average cost per day is approximately \$44.

Notification: Costs for notifying a property owner that a person who has a duty to enter a dog owner's property would have indeterminate increased costs for state and local agencies.

Explanation of Local Revenues: *Civil Liability:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Criminal Penalty - Felony and Misdemeanor Offenses: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Karen Firestone, 317-234-2106.